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U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
KSS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CW

DONNA HINES Plaintiff,

vs.

CALIFORNIA PUBLIC
UTILITIES COMMISSION/
APPLING/AGUILAR/ Defendant(s).
WULLENJOHN/ JOHN DOES
1-30

C 07 41451
CASE NO.

EMPLOYMENT DISCRIMINATION
COMPLAINT

1. Plaintiff resides at:

Address 268 BUSH STREET, # 3204

City, State & Zip Code SAN FRANCISCO, CA 94104

Phone (415) 205-3377

2. Defendant is located at:

Address 505 VAN NESS AVE

City, State & Zip Code SAN FRANCISCO, CA 94102

3. This action is brought pursuant to Title VII of the Civil Rights Act of 1964 for employment discrimination. Jurisdiction is conferred on this Court by 42 U.S.C. Section 2000e-5.

Equitable and other relief is sought under 42 U.S.C. Section 2000e-5(g).

4. The acts complained of in this suit concern:

a. ___ Failure to employ me.

b. ___ Termination of my employment.

1 c. ☒ Failure to promote me.

2 d. ☐ Other acts as specified below.

3 RETALIATION, HARASSMENT + HOSTILE WORK
4 ENVIRONMENT, OBSTRUCTION OF JUSTICE
5 + OTHER UNLAWFUL EMPLOYMENT PRACTICES
6
7
8

9 5. Defendant's conduct is discriminatory with respect to the following:

10 a. ☒ My race or color.

11 b. ☐ My religion.

12 c. ☐ My sex.

13 d. ☐ My national origin.

14 e. ☒ Other as specified below.

15 RETALIATORY MOTIVE,
16

17 6. The basic facts surrounding my claim of discrimination are:

18 AS ATTACHED, 30+ PAGE COMPLAINT
19 WITH CASE BACKGROUND
20
21
22
23

24 7. The alleged discrimination occurred on or about FALL 2004 - PRESENT
25 (DATE)
26

27 8. I filed charges with the Federal Equal Employment Opportunity Commission (or the
28 California Department of Fair Employment and Housing) regarding defendant's alleged

1 discriminatory conduct on or about MARCH 1, 2007

2 (DATE)

3 9. The Equal Employment Opportunity Commission issued a Notice-of-Right-to-Sue letter
4 (copy attached), which was received by me on or about MAY 2, 2007
~~MARCH 30, 2007~~

5 (DATE)

6 10. Plaintiff hereby demands a jury for all claims for which a jury is permitted:

7 Yes .X No

8 11. WHEREFORE, plaintiff prays that the Court grant such relief as may be appropriate,
9 including injunctive orders, damages, costs, and attorney fees.

10
11 DATED: 8/12/07


12 SIGNATURE OF PLAINTIFF

13
14 (PLEASE NOTE: NOTARIZATION
15 IS NOT REQUIRED.)

DONNA HINES
16 PLAINTIFF'S NAME

17 (Printed or Typed)
18
19
20
21
22
23
24
25
26
27
28



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
San Francisco District Office

350 The Embarcadero, Suite 500
San Francisco, CA 94105-1260
(415) 625-5601
TTY (415) 625-5610
FAX (415) 625-5609
TOLL FREE (800) 669-4000

Donna Hines
268 Bush Street #3204
San Francisco, CA 94104

Re: EEOC Charge Number: 550-2007-01072
Donna Hines v. CA Public Utilities Commission

Dear Ms. Hines:

The Commission has received your request for a Notice of Right to Sue in the above referenced charge. As a result of the request for Notice of Right to Sue, the EEOC has terminated its investigation and the request has been forwarded to the U.S. Department of Justice for issuance. That Agency will act on your request as soon as possible and issue the Notice directly to you.

If you have any questions, please call Blake Wu, Investigator, at (415) 625-5671.

On Behalf of the Commission:

5/2/07
Date


H. JOAN EHRLICH
Director



U.S. Department of Justice

Civil Rights Division

NOTICE OF RIGHT TO SUE
WITHIN 90 DAYS

CERTIFIED MAIL
5068 8271

950 Pennsylvania Avenue, N.W.
Karen Ferguson, EMP, PHB, Room 4239
Washington, DC 20530

May 18, 2007

Ms. Donna Hines
268 Bush St., #3204
San Francisco, CA 94104

Re: EEOC Charge Against California Public Utilities Commission, et al.
No. 550200701072

Dear Ms. Hines:

Because you filed the above charge with the Equal Employment Opportunity Commission, and the Commission has determined that it will not be able to investigate and conciliate that charge within 180 days of the date the Commission assumed jurisdiction over the charge and the Department has determined that it will not file any lawsuit(s) based thereon within that time, and because you have specifically requested this Notice, you are hereby notified that you have the right to institute a civil action under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, et seq., against the above-named respondent.

If you choose to commence a civil action, such suit must be filed in the appropriate Court within 90 days of your receipt of this Notice. If you cannot afford or are unable to retain an attorney to represent you, the Court may, at its discretion, assist you in obtaining an attorney. If you plan to ask the Court to help you find an attorney, you must make this request of the Court in the form and manner it requires. Your request to the Court should be made well before the end of the time period mentioned above. A request for representation does not relieve you of the obligation to file suit within this 90-day period.

This Notice should not be taken to mean that the Department of Justice has made a judgment as to whether or not your case is meritorious.

Sincerely,

Wan J. Kim
Assistant Attorney General
Civil Rights Division

by

A handwritten signature in cursive script, reading "Karen L. Ferguson", is written over the typed name.

Karen L. Ferguson
Supervisory Civil Rights Analyst
Employment Litigation Section

cc: San Francisco District Office, EEOC
California Public Utilities Commission, et al.

8/13/2007:10:12 AM

PROOF OF SERVICE

Page 1 of 1

SUBJECT: HINES V. CPUC/APPLING/AGUILAR/WULLENJOHN/DOES 1-30
Filing to U.S. District Court of N. California: Complaint of
Employment Discrimination and Other Unlawful Employment Acts

I am employed in the Country of San Francisco, California. I am over the age of 18 years and am not a party to the within entitled cause; my business address is 601 Van Ness Avenue, Suite E, San Francisco, CA 94102. I have served the following document(s):

PLAINTIFF HINES' FILING TO U.S. DISTRICT COURT OF N. CALIFORNIA

on the parties through their attorneys of record, by placing the copies thereof in sealed envelopes addressed as shown below for service as designated below:

(A) By Delivery: I caused each envelope to be personally delivered to the designation indicated below, that same day in the ordinary course of business.

TYPE OF SERVICE**ADDRESSEE**

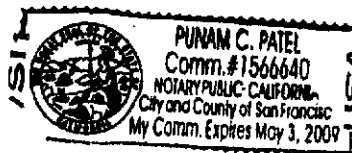
U.S. District Court of N.
California
450 Golden Gate Ave.
16h Floor
San Francisco, CA 94102

I declare under penalty of perjury the foregoing is true and correct and that this declaration was executed on August 13, 2007, in San Francisco, California.

P. PATEL

(Typed Name)

[Signature]
 (Signature)



Monday, August 13, 2007

Donna Hines
Attorney Pro Se
268 Bush Street, # 3204
San Francisco, CA 94104

To: U.S. District Court of Northern California
San Francisco Office

Re: HINES v CALIFORNIA PUBLIC UTILITIES
COMMISSION/APPLING/AGUILAR/WULLENJOHN/DOES 1-30:
Filing Complaint of Employment Discrimination and Other Unlawful
Employment Practices

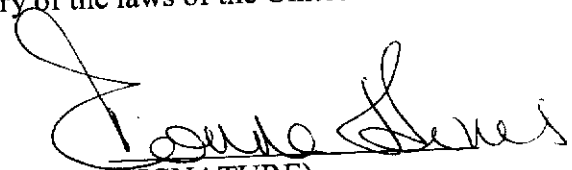
I, Donna Hines, am pro se attorney in the above-mentioned case. I am filing herewith a complaint of employment discrimination and other unlawful employment practices against Defendants, as listed above.

I certify and attest that to the best of my knowledge, information, and belief, that:

- (1) the attached complaint is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
- (2) the claims, defenses, and other legal contentions have evidentiary support, or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery;
- (3) the allegations and other factual contentions have evidentiary support, or if so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

I hereby swear to this statement, under perjury of the laws of the United States of America.

8/13/07
(DATE)


(SIGNATURE)

DONNA HINES
(PRINT NAME)

COMPLAINT: HINES v CPUC/APPLING/
AGUILAR/WULLENJOHN/DOES 1-30

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GENERAL INFORMATION.

1. Plaintiff's address is:

- i. 268 Bush Street, # 3204
- ii. San Francisco, CA 94104
- iii. Phone: (415) 205-3377

2. Defendants are located at:

- i. 505 Van Ness Avenue
- ii. San Francisco, CA 94102

SUBJECT MATTER JURISDICTION.

3. Plaintiff files herewith a Title VII cause of action against Defendants. Jurisdiction over Title VII actions lies with this court, pursuant to 42 U.S.C.A. § 2000e-5(f) (3) and Title 28 U.S.C, Sections 1404 and 1406. A Title VII action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have occurred, in which the employment records relevant to the practice are maintained and administered, or in the judicial district in which the Plaintiff works.
4. Plaintiff believes that jurisdiction lies with the district court, since most of the unlawful employment practices relevant to this case have occurred in San Francisco. Plaintiff works in San Francisco and believes, and therein alleges, that employment records relevant to the practice are maintained and administered there.
5. District courts have jurisdiction over unlawful practices involving malice or conscious disregard as it relates to the deprivation of individuals' constitutionally-protected rights. Plaintiff believes, and therein alleges, that Defendants' have acted with malice or conscious disregard in depriving her of constitutionally-protected

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

rights, in violation of the First, Fifth, and Fourteenth Amendments and 42 U.S.C. 2000e-2(n)(2)(D) and 42 U.S.C., Sections 1981 and 1983.

VENUE

6. Venue is proper in this District pursuant to 28 U.S.C. Sections 1404 and 1406, and 42 U.S.C.A. § 2000e-5(f) (3), since Defendants' principal office is located in this District and because a substantial portion of the events or deprivations that gave rise to this lawsuit occurred in this District.

THE PARTIES

7. Plaintiff has been employed by the California Public Utilities Commission (hence referred to as the CPUC, or "the Commission") since 2002.
8. Defendant California Public Utilities Commission (CPUC) is a person within the meaning of 42 U.S.C. section 2000e-(a) and an employer within the meaning of 42 U.S.C. Section 2000e(b).
9. The California Public Utilities Commission (CPUC) is a government agency of the State of California created pursuant to California law. The CPUC is responsible for regulating privately owned telecommunications, electric, natural gas, water, railroad, rail transit, and passenger transportation companies, in addition to authorizing video franchises.
10. Defendants employ over five hundred individuals. Defendants are responsible for establishing the compensation, terms, conditions, and other privileges of employment that bear upon the employment of Plaintiff.

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

11. Defendant Arocles AGUILAR is a person within the meaning of 42 U.S.C. section 2000e-(a).

12. Defendant Dana S. APPLING is a person within the meaning of 42 U.S.C. section 2000e-(a).

13. Defendant Robert J. WULLENJOHN is a person within the meaning of 42 U.S.C. section 2000e-(a).

14. Defendant DOES 1-30 are each persons, within the meaning of 42 U.S.C. section 2000e-(a).

CONDITIONS PRECEDENT TO SUIT.

15. Plaintiff has exhausted all applicable administrative remedies. Plaintiff has executed timely filing of charges with the relevant agencies and/or Departments needed to bring this suit to the federal jurisdiction.

16. All conditions precedent to the filing of this suit have been satisfied.

17. On February 23, 2006, Plaintiff requested that the State Personnel Board (SPB) of the State of California hear the complaint of retaliation and discrimination, as it relates to Defendants.

18. On March 10, the Board agreed to review Plaintiff's charges under California Government Code, Section 8547 *et seq.* (California Whistleblower Protection Act), and 19683, as well as Title 2, California Code of Regulations, section 56 *et seq.*

19. The case was heard on January 4, 2007. On January 18, 2007, the Board issued its Notice of Findings to the case (06-0602-E), in which it dismissed Plaintiff's case, and notified her that her administrative remedies had been exhausted.

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 20. On or about July 9, 2006, Plaintiff first requested the California Department of Fair
2 Employment and Housing (DFEH) to investigate her allegations regarding
3 defendants' discriminatory conduct and unlawful employment practices.
4

5 21. On or about January 19, 2007, Plaintiff formally requested the DFEH to issue her a
6 Right-to-Sue Letter.

7 22. On March 1, 2007, the DFEH notified Plaintiff that it had closed her case, since she
8 had requested an immediate right- to-sue letter. The Department also notified
9 Plaintiff of her right to obtain from the Equal Employment Opportunity Commission
10 (EEOC) Federal notice of the right to sue. Plaintiff requested said notice from the
11 EEOC.
12

13 23. On March 28, 2007, the EEOC notified Plaintiff that they had drafted a Charge of
14 Discrimination. They also informed Plaintiff that in response to her request for an
15 immediate right to sue notice, they would cease investigating this charge.
16

17 24. On March 30, 2007, the EEOC sent Plaintiff a letter, indicating that the charge was to
18 be filed.

19 25. On May 2, 2007, the EEOC notified Plaintiff that it had received her request for a
20 Notice of Right to Sue letter, and as a result, had terminated its investigation of her
21 case. The Commission then informed Plaintiff that it had forwarded the request to the
22 U.S. Department of Justice for issuance.
23

24 26. On May 18, 2007, the U.S. Department of Justice (DOJ, or "the Department") sent
25 Plaintiff a letter notifying her of the right to institute a civil action under Title VII of
26 the Civil Rights Act of 1964, as amended, against the above-named Defendants. The
27

28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 Notice-of-Right to Sue was issued, for the following reasons: (a) Plaintiff's filing
2 Charge No. 550200701072 with the EEOC; (b) EEOC determination that it would not
3 be able to investigate and conciliate the charge within 180 days of the date it assumed
4 jurisdiction over the charge; (c) DOJ's determination that it will not file any
5 lawsuit(s) based thereon within that time; and (d) Plaintiff's specific request for said
6 Notice.
7

8 9 **CASE SUMMARY**

10 27. This action is brought on by Plaintiff to request the Court to enforce provisions of
11 Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, et seq.
12 ("Title VII") and 42 U.S.C. §1981 and 1983.
13

14 28. Plaintiff is employed with the Division of Ratepayer Advocates (DRA), a department
15 within the CPUC responsible for advocacy on behalf of California taxpayers.

16 29. This case alleges Defendants' engaging in illegal employment practices, including but
17 not limited to denial of promotion, discrimination on the basis of race, retaliation and
18 hostile work environment, and obstruction of justice, in response to Plaintiff's
19 opposition to employment practices made unlawful under Title VII.
20

21 30. Plaintiff alleges that Defendants' practices have affected the compensation, terms,
22 conditions, and other privileges of her employment, and are in violation of Title VII,
23 42 U.S.C. Sections 2000e-2(a), (h), (k), and (n) (2)(D) and 42 U.S.C., Section 2000e-
24 3(a).
25

26
27
28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 31. Plaintiff alleges that Defendant WULLENJOHN committed acts motivated in part or
2 whole by retaliatory and racial animus, in violation of Title VII, 42 U.S.C. Sections
3 2000e-2(a), (m), (n) (2)(D), and 42 U.S.C. Section 2000e-3(a).

4
5 32. Plaintiff alleges that the acts complained of herein were either approved or condoned
6 by Defendants APPLING and the CPUC, each of whom had the authority to make
7 policy decisions and to direct a substantial portion of the Defendants' business.

8
9 33. Plaintiff alleges that the behavior of Defendants APPLING and CPUC has affected
10 the compensation, terms, conditions, and other privileges of Plaintiff's employment,
11 and has violated Title VII, 42 U.S.C. Section 2000e-2(a), (h), and (k).

12 34. Plaintiff alleges that behavior of Defendants' APPLING and CPUC is based on her
13 good faith opposition to unlawful practices, and constitutes acts involving malice or
14 conscious disregard as it relates to denial of her constitutionally-protected rights, in
15 violation of 42 U.S.C, Section 703 (n) (2)(D) and 42 U.S.C., Sections 1981 and 1983.

16
17 35. The lawful exercise of Plaintiff's First Amendment rights focuses on her good faith
18 attempts to remedy issues of malfeasance and deficient staff support, on a project to
19 which she was assigned. The Project aims at preventing blackouts in California.

20
21 36. This project malfeasance resulted in a delay in effectively advocating on behalf of
22 California taxpayers, and consists mainly of the failure to provide: (a) legal due
23 diligence of draft energy contracts required between privately owned energy
24 companies (i.e., generators) and investor-owned utilities regulated by the State of
25
26
27
28

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

California¹; and (b) analysis of [energy] generation capability and availability, in times of peak consumer demand.

37. Plaintiff reported these deficiencies to DRA management, and requested that the Deputy Director WALSH facilitate a meeting, to help remedy problems.

38. Over the course of six months, Deputy Director WALSH did facilitate two meetings to address project deficiencies.

39. Deputy Director WALSH stated that problems in project operations were generic to the Division, and not unique to Plaintiff or to her project.

40. Deputy Director WALSH and other DRA management agreed that the staff assigned to the project were deficient in their project responsibilities. WULLENJOHN, Branch Manager CAUCHOIS and Legal Supervisor McKENZIE were among the staff copied on e-mails regarding this issue.

41. When Plaintiff reported these same deficiencies to WULLENJOHN, instead of correcting these deficiencies, he engaged in retaliatory acts. Over time, these acts would reveal a pattern of harassment, caustic, and abusive behavior predicated on racial animus and retaliatory sentiment.

42. In Plaintiff's Performance Appraisal Summary, dated January 3, 2006, WULLENJOHN commented that "Donna has in the past "flamed" her managers and co-workers in e-mails."

¹ Required as per conditions of Public Utilities Commission's Resource Adequacy project, Docket R.05-12-013.

- 1 43. During the course of the January 4, 2007 administrative hearing to hear Plaintiff's
2 charge of retaliation, WULLENJOHN declared that he would "**beat the aggression**"
3 out of her.
4
- 5 44. The next day, January 5, 2007, Defendants CPUC promoted WULLENJOHN to
6 Branch Manager of the Division of Telecommunications.
- 7 45. On or about January 31, 2007, WULLENJOHN was promoted out of the Division of
8 Ratepayer Advocates (DRA).
9
- 10 46. Plaintiff alleges that Defendants APPLING AND CPUC failed to take timely action
11 to mitigate, remedy, and correct WULLENJOHN's discriminatory and retaliatory
12 acts.
13
- 14 47. Plaintiff alleges that Defendants APPLING and CPUC condoned, authorized, and
15 rewarded WULLENJOHN for said practices.
- 16 48. Plaintiff alleges in this action that Defendants APPLING and CPUC have engaged in
17 employment practices on the basis of retaliatory motive, in denying her promotion to
18 the position of Public Utilities Regulatory Analyst (PURA) IV/V.
19
- 20 49. Plaintiff alleges in this action that Defendants APPLING and CPUC have engaged in
21 employment practices on the basis of retaliatory motive, in condoning or authorizing
22 WULLENJOHN's retaliatory, malicious, and defamatory acts.
- 23 50. Plaintiff alleges that Defendants APPLING and the CPUC have pursued and continue
24 to pursue policies of hiring, evaluation, promotion, and other employment practices
25 that fail to meet the standards of a bona fide merit-based system, in violation of Title
26 VII of the Civil Rights Act of 1964, as amended, 42 U.S.C., Section 2000e-2(h).
27

28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 51. Plaintiff alleges that Defendants APPLING and the CPUC have pursued and continue
2 to pursue policies of hiring, evaluation, promotion, and other employment practices
3 that fail to meet the standards of a bona fide merit-based system. Plaintiff has reason
4 to believe, and therein alleges, that lack of said system has a disparate impact on
5 CPUC employees, on the basis of race, in violation of Title VII of the Civil Rights
6 Act of 1964, as amended, 42 U.S.C., Section 2000e-2(h) and (k), and ((n)(2)(D).
7

8 52. Plaintiff has reason to believe, and therein contends, that Defendant APPLING
9 admitted to inconsistencies in DRA management's standards for application of
10 evaluation and disciplinary practices.
11

12 53. Plaintiff has reason to believe, and therein charges, that Defendant CPUC admitted to
13 inconsistencies in its performance evaluation process, and in other employment
14 practices.
15

16 54. Plaintiff alleges that Defendants have obstructed justice and engaged in acts or
17 practices with malice or conscious disregard to deprive her of constitutionally-
18 protected right, as per the First, Fifth, and Fourteenth Amendments, and in violation
19 of 42 U.S.C, Section 2000e-2(n)(2)(D).
20

21 55. In sum, Plaintiff believes, and therein alleges, that the acts described herein violate
22 fundamental principles of public policy barring employment discrimination and other
23 unlawful employment practices.
24

25 **Retaliation and Progressive Decline in Plaintiff's Performance Evaluations**

26
27
28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 56. The civil service process requires that State employees applying for competitive titles
2 follow open and competitive civil service examination.

3
4 57. Plaintiff joined the CPUC in June 2002.

5 58. During Plaintiff's first year of employment with Defendant, she received three
6 Performance Appraisal Summary reports, all with ratings of "outstanding".

7 59. Under the category "Relationships with People", Plaintiff was rated as "outstanding".

8 In one of the evaluations, [then supervisor] LAFRENZ commented that Plaintiff
9 worked very well with CPUC analysts, attorneys and Administrative Law Judges on
10 her projects. LAFRENZ went on to note that Plaintiff appropriately voices her
11 opinions and recommendations on the regulatory issues she works on, and accepts
12 feedback from others (i.e., senior level staff, judges) on her work very well, and that
13 [Plaintiff's] relationships with people are entirely professional and polite."
14

15
16 60. Plaintiff was promoted in October 2003. The CPUC justified Plaintiff's promotion
17 based on her analytical work that saved California taxpayers a total of \$1 billion in
18 electricity rates.

19 61. In early 2004, Plaintiff transferred to the Division of Ratepayer Advocates. Soon
20 thereafter, she began working on the Project.

21
22 62. Plaintiff served as Project Coordinator until March 2006.

23 63. In October 2004, Plaintiff received a performance evaluation, signed by Christopher
24 DANFORTH and Scott CAUCHOIS, Supervisor and Branch Manager, respectively.
25 The overall rating for the evaluation was "outstanding". The rating for
26 "Relationships with People" was deemed "outstanding".
27

28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 64. Comments include the following: "Plaintiff [Donna] has taken the initiative to keep
2 management informed about workshops and other activities occurring in the [project]
3 proceedings. She sends frequent e-mail updates to relevant persons...Donna has
4 initiated discussion to improve team dynamics that will benefit the branch. ..She
5 [Plaintiff] is well respected by her peers, and cordial and professional in all her
6 interactions."

8 65. The October 2004 performance evaluation assessed Plaintiff's work on the same
9 project and in the same Division that she worked on while under WULLENJOHN's
10 supervision.

12 66. In October 2004, WULLENJOHN transferred to the Division of Ratepayer
13 Advocates, as a supervisor.

15 67. In January 2006, Plaintiff received a performance evaluation, signed by
16 WULLENJOHN. The evaluation consisted of three ratings of "Meets Expectations"
17 and four ratings of "Exceeds Expectations". There was no overall rating. Under the
18 category "Relationships with People", Defendant stated: "Donna has in the past
19 "flamed" her managers and co-workers in e-mails."

21 68. Plaintiff believes, and therein alleges, that WULLENJOHN's performance evaluation
22 is an adverse employment practice, since it is grounded in racial animus and
23 retaliatory sentiment. Plaintiff rebutted the January 2006 evaluation.

25 69. Plaintiff alleges that WULLENJOHN's behavior created a pervasive and hostile work
26 environment. By March 2006, Plaintiff had been suffering from anxiety and
27 emotional distress for well over a year. The harassment and abusive behavior of

28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 WULLENJOHN was so severe and unbearable that it would offend any member of
2 the protected class of reasonable sensibilities.

3
4 70. To avoid further interaction with WULLENJOHN, Plaintiff resigned from the project.

5 71. Plaintiff has reason to believe, and therein alleges, that a fellow analyst (of African
6 ethnicity) also complained to DRA management about WULLENJOHN's behavior.

7 72. In March, 2006, a White female analyst replaced Plaintiff as Project Coordinator.

8 Plaintiff believes, and therein alleges, that this analyst is a Senior Utility Engineer—
9 three levels above Plaintiff's PURA III grade. That analyst left the project and the
10 Division of Ratepayer Advocates around May, 2006.

11
12 73. Thereafter, an African male, PURA III, served as Project Coordinator.

13 74. In the fall of 2006, a White (Middle Eastern) male analyst replaced the PURA III
14 analyst as Project Coordinator. Plaintiff believes, and therein alleges, that this analyst
15 is a Senior Utility Engineer— three grades above Plaintiff. Plaintiff has reason to
16 believe, and therein alleges, that DRA also hired a consultant to work on the project.

17
18 75. Plaintiff believes, and therein alleges, that during the time when she worked on the
19 Project, she performed work of another, more highly paid classification without being
20 given the title.

21
22 76. Plaintiff believes, and therein alleges, that during the time when she worked on the
23 Project, she performed work of another, more highly paid classification without being
24 given the commensurate increase in pay.

25
26
27
28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 77. During the time when Plaintiff worked on the Project, Plaintiff believes, and therein
2 alleges, that Defendants APPLING and CPUC deprived her of employment
3 opportunities and benefits commensurate with her performance.
4

5 78. Pursuant to Title 42, Section 2000e-2(a), these opportunities and benefits of which
6 Plaintiff was deprived must be accorded to all employees regardless of race.

7 79. Pursuant to Title 42, Section 2000e-2(h), these opportunities and benefits of which
8 Plaintiff was deprived must be accorded to all employees, based on a bona fide merit
9 system.
10

11 80. Pursuant to Title 42, Sections 2000e-2(n) (2)(D) and 2000e-3(a), these opportunities
12 and benefits of which Plaintiff was deprived must be accorded to all employees
13 regardless of the decision to exercise their right to due process of law, as enabled by
14 the Constitution.
15

16 81. During the time when Plaintiff worked on the Project, she believes and therein alleges
17 that she merited promotion and commensurate increase in compensation.

18 82. Plaintiff is currently working on a project related to the audit of utility procurement,
19 and is supervised by Joseph ABHULIMEN.
20

21 83. In or around June 2006, DRA Management asked Plaintiff to serve as Project
22 Coordinator for this new project. Plaintiff believes, and therein contends, that she
23 would be required to continue to perform work above grade, while deprived of
24 promotion and increase in compensation based on merit. Plaintiff contends that said
25 practice is illegal, in violation of Title VII, 42 U.S.C., Sections 2000e-2(a) and (h).
26
27
28

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 84. The staffperson assigned as Project Coordinator to the audit project is an Asian male.
2 Plaintiff has reason to believe, and therein alleges, that he is a Senior Utility
3 Engineer.
4

5 85. In May 2007, Plaintiff received a performance evaluation, signed by ABHULIMEN.
6 The evaluation consisted of five ratings of "Meets Expectations" and two ratings of
7 "Exceeds Expectations". No overall rating was provided. Under the category
8 "Relationships with People", Plaintiff was rated as "meets expectations".
9

10 86. In that evaluation, ABHULIMEN wrote: "...Donna should strive to assume increased
11 project leadership roles in order to adequately prepare herself for promotion to the
12 PURA IV position."
13

14 87. Plaintiff rebutted this statement that links promotion with "assumption of" project
15 leadership roles. Plaintiff cited the statement and the reason for denial of promotion
16 as incorrect, misleading, and pretextual, since she had served as Project Coordinator
17 (from 2004-06) under WULLENJOHN's supervision.
18

19 88. Plaintiff notes that ABHULIMEN acknowledged in the evaluation that "Donna is
20 currently taking a major lead in developing a benchmark model to be used by all three
21 IOUs [utilities] for their hour and day-ahead power transactions." This statement
22 contradicts the statement linking promotion to Plaintiff's assumption of "project
23 leadership roles". Plaintiff cites this as pretextual in Defendants' denial of promotion.
24

25 89. Plaintiff alleges that Defendants APPLING and CPUC have required her to perform
26 work of another, more highly classified and paid staff, without being given the title
27
28

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 and commensurate compensation indicative of said performance, in violation of Title
2 42, Sections 2000e-2(a) and (h).

3
4 90. Finally, as it relates to ratings on promotional examinations, Plaintiff notes the
5 following:

6 91. In April 2005, Plaintiff took the PURA IV exam. On a scale of 1-5, with one as
7 highest rating, Plaintiff scored a "2". She was deemed eligible to apply for jobs at
8 this level. Plaintiff applied for several job openings both in DRA and in other
9 Divisions of the Commission.
10

11 92. In July 2006, Plaintiff took the PURA V exam, and was rated as a "3". She was
12 deemed eligible to apply for jobs at this level, and did so. Plaintiff applied for several
13 job openings both in DRA and in other Divisions of the Commission.
14

15 93. Plaintiff retook the PURA IV exam in June 2007, and was downgraded to a rating of
16 "3". Plaintiff alleges, and cites this herein, as evidence of progressive decline in
17 evaluation ratings, as it relates to Defendants' alleged retaliatory actions.

18 94. Plaintiff alleges Commission's retaliatory action, and failing or refusing to engage in
19 bona fide, consistent and merit-based system in hiring, evaluation, promotion, and
20 other employment decisions.
21

22 95. Plaintiff alleges disparity in Commission employment decisions, and a concomitant
23 disparate impact on the basis of race, due to lack of a bona fide merit-based system
24 for evaluating, hiring, and promoting staff.
25
26
27
28

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 96. Because of Defendants' actions in denial of promotion, Plaintiff has suffered, and has
2 continued to suffer losses of wages/salary and other employee compensation and
3 benefits in an amount that is currently un-ascertained.
4

5 **OBSTRUCTION OF JUSTICE (DEFENDANTS AGUILAR, APPLING)**
6

7 97. On February 23, 2006, Plaintiff filed a complaint with California's State Personnel
8 Board, alleging retaliation and discrimination by the Commission and
9 WULLENJOHN.
10

11 98. On March 10, 2006, the Board agreed to hear Plaintiff's complaint, assigned as Case
12 06-0602-E.
13

14 99. During the course of case investigation, several non-party individuals informed
15 Plaintiff that Commission staff ordered/directed them not to answer Plaintiff's
16 Request for Written Statement.
17

18 100. Plaintiff has reason to believe that these non-party individuals would have
19 voluntarily responded to Request for Written Statements, if not for the "directives" of
20 Commission staff prohibiting them from doing so.
21

22 **CASE BACKGROUND/STATEMENT OF FACT**

23 Educational background

24 101. Plaintiff has a Masters in Business Administration, and has taken additional post-
25 graduate courses in financial econometrics and risk management.
26

27 Employment with Defendant

28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 102. Plaintiff, an African-American female, joined the California Public Utilities
2 Commission in June, 2002 as a Public Utilities Regulatory Analyst (PURA).
3 Analysts are responsible for conducting technical and analytical research work as
4 well as consultative and advisory services in the areas of economics, finance, and
5 policy.
6

7
8 103. Consistent with state administrative requirements, Plaintiff was placed on
9 probation during her first year of employment. During this time, Plaintiff received
10 three² evaluations, with overall ratings of "outstanding". Under the category
11 "Relationships with People", Plaintiff received ratings of "outstanding".
12
13

14 104. In October, 2003, Plaintiff was promoted to Public Utilities Regulatory Analyst,
15 Level III. Defendants CPUC justified Plaintiff's promotion due to her analytical
16 work that saved California taxpayers a total of \$1 billion in electricity rates.
17

18 105. In January 2004, Plaintiff transferred to the Division of Ratepayer Advocates
19 (DRA), a division of the CPUC responsible for consumer advocacy.
20
21

22 106. In or around February, 2004, DRA Management assigned Plaintiff as Project
23 Coordinator to the Resource Adequacy Project (the "Project"). Plaintiff served as
24 Project Coordinator until March 2006.
25
26

27
28 ² Mandatory for recent staff hires and/or promotions.

107. At that time, duties were undefined and ambiguous. Basic duties involved project management, making policy recommendations and reporting to DRA management regarding progress in staff proceedings.

108. At that time, an attorney (OBIORA) and an analyst (SMITH) were also assigned to the Project. Lawyers and analysts are co-assigned to projects; analysts generally write policy recommendations for management review. Legal staff assist in drafting policy recommendations, presenting testimony, and submitting briefs before the CPUC.

109. In terms of management, the Legal division is separate from DRA. Legal staff report directly to Legal supervisors; analysts report to a DRA supervisor responsible for project operations. Branch Managers manage DRA (but not Legal) supervisors. Legal supervisors report directly to DRA's Director.

110. The main objective of the project is to order regulated utilities to buy enough energy to "keep the lights on" during peak times of the year, i.e., prevent blackouts. Generators want to sell as much energy to the utilities, in order to make huge profits. They lobby the Commission to order the utilities to do so. Utilities enter into long-term contracts for much of their energy demand. Contract terms dictate what time and for how long energy is available. Engineering feasibility studies determine the physical sites where energy is needed. In this project, generators proposed several draft contracts that they wanted the Commission to approve.

111. Plaintiff requested due diligence and legal assistance in reviewing: (1) contracts signed by the Department of Water Resources during California's 2001-02 energy

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 crisis; and (2) draft contracts proposed by generators for future utility purchases under
2 this [Resource Adequacy] Project.

3
4 112. Plaintiff needed OBIORA to review these contracts, to ensure that taxpayers got a
5 fair deal, and that generators were held to certain performance standards. Plaintiff
6 needed MAZY to review the feasibility proposals underway, and to provide comment
7 on if they were consistent with engineering norms or standards. Neither staff
8 reviewed these policy issues.

9
10 113. In July, 2004, DRA was required to file briefs on policy issues pertaining to the
11 Project. The determination of the type and quantity of energy contracts eligible under
12 this project would directly impact utility rates of California taxpayers.

13 114. Had the contracts not been approved, taxpayers could have paid higher rates for
14 electricity services.

15
16 115. Beginning in June, 2004, Plaintiff asked OBIORA to provide due
17 diligence/review of draft long-term contracts for provision of energy. As of late July,
18 OBIORA had not responded to Plaintiff's request. Plaintiff then resorted to
19 reviewing the contracts, and in turn, drafted policy recommendations on this policy
20 issue.

21
22 116. Problems with project operations continued. After some months, Plaintiff asked
23 (then) Deputy Director WALSH to facilitate a meeting, to remedy these problems.

24 117. Deputy Director WALSH agreed to do so, and acknowledged ambiguity re
25 coordination between staff. Most importantly, she noted that the "concerns you raise
26 are generic and not unique to you or your particular assignments."
27

28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 118. In or around late September, 2004, WULLENJOHN transferred to the Division of
2 Ratepayer Advocates, as a supervisor.

3
4 119. Around late September/early October 2004, a meeting was held to discuss these
5 issues. Deputy Director WALSH, WULLENJOHN, CAUCHOIS, Plaintiff, and
6 SMITH attended the meeting. OBIORA did not attend the meeting.

7 120. Following the meeting, WULLENJOHN said that he would speak with OBIORA
8 regarding lack of responsiveness to Plaintiff's project requests. On or around
9 November 1, WULLENJOHN met with OBIORA, privately.

10
11 121. Following the meeting, WULLENJOHN spoke with Plaintiff, and indicated that
12 he thought the operational problem with OBIORA was due to Plaintiff's
13 "personality".

14 122. Despite the assessment of Deputy Director WALSH that operational problems
15 were generic to the Division, and "not attributable to [Plaintiff] or to [Plaintiff's]
16 project", WULLENJOHN blamed Plaintiff for legal's non-responsiveness to Project
17 operations.
18

19 123. Since it was early in their work relationship, Plaintiff demurred on this issue,
20 hoping to alleviate the situation.

21
22 124. In Fall, 2004, another series of Commission-wide project workshops took place.
23 Workshop participants proposed a draft contract template for discussion, comment,
24 and eventual approval by Commission decision-makers. Plaintiff reiterated the
25 request for legal due diligence, to review terms and conditions of draft contract, to
26 ensure California taxpayers would not overpay for electricity services.
27

28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 125. Around January 2005, Plaintiff again raised the issue of OBIORA'S non-
2 responsiveness on project issues.

3 126. In early January 2005, Anthony MAZY was assigned to the Project, replacing
4 SMITH as project analyst. MAZY was assigned to analyze feasibility proposals
5 developed for the Project. Over the course of the two months of his assignment,
6 MAZY failed to provide this analysis.

7 127. In an e-mail, WULLENJOHN admitted that MAZY was non-responsive to his
8 project responsibilities.

9 128. WULLENJOHN held a private meeting with MAZY. After the meeting,
10 WULLENJOHN indicated that the problem of MAZY'S non-responsiveness lay with
11 Plaintiff.

12 129. After some two months of non-responsiveness from both MAZY and OBIORA,
13 Plaintiff again asked the Deputy Director WALSH to facilitate a meeting, to remedy
14 operational problems.

15 130. Deputy Director WALSH agreed to chair a meeting. WALSH also noted that "we
16 are all in agreement that [OBIORA] has not provided the needed support." Branch
17 Manager CAUCHOIS, WULLENJOHN, ABHULIMEN (MAZY'S supervisor), and
18 Legal supervisor MCKENZIE were copied on this e-mail.

19 131. Despite Deputy Director's assessment, WULLENJOHN blamed Plaintiff for the
20 non-responsiveness of both OBIORA and MAZY, stating "...today I plan to discuss
21 with Donna [Plaintiff] privately that though her recent experience with team members
22 not being responsive is their responsibility, it is also the responsibility of the person
23
24
25
26
27
28

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 doing the asking.” This statement underscores WULLENJOHN’S modus operandi of
2 holding Plaintiff responsible for work deficiencies of other staff. In doing so, he
3 implicitly expanded the scope of work for which she would be held responsible, thus
4 changing the terms and conditions of her work.
5

6 132. A meeting in late Feb/early March 2005, to help correct project deficiencies.
7 WALSH, CAUCHOIS, MCKENZIE, MAZY, ABHULIMEN, WULLENJOHN and
8 Plaintiff attended the meeting.
9

10 133. In an e-mail dated March 4, MAZY summarized the meeting, and noted
11 WALSH’s ferocity in “...finding fault with everyone in the room other than Ms.
12 Hines [Plaintiff].”
13

14 134. In early March, OBIORA was reassigned to another project, at his request.
15 Plaintiff has reason to believe, and therein alleges, that no disciplinary action was
16 taken against him. Another attorney [PAULL] was assigned to the Project.
17

18 135. PAULL questioned DRA’s capability and need to provide due diligence of the
19 contracts, and stated that she assumed other Legal staff in the Commission had
20 reviewed the contracts.
21

22 136. In July 2005, Supervisor MCKENZIE commented that operational problems
23 could be attributed to lack of clarity from DRA management on scope and objectives
24 of Plaintiff’s project work.
25

26 137. In or around August, 2005, Legal supervisor MCKENZIE admitted that to the
27 best of her knowledge, no one in the Commission had reviewed or provided due
28 diligence of draft contracts.

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 138. During this time, WULLENJOHN's behavior towards Plaintiff continued to be
2 abusive, oppressive, and grounded in retaliatory sentiment and racial animus.

3 139. On a regular basis, Wullenjohn chastised, threatened, and held Plaintiff
4 responsible for project communications and/or activity. Much of key communication
5 on project issues took place in off-line e-mails, debriefing meetings, and
6 conversations between DRA and Legal management -- communications of which
7 Plaintiff was unaware.
8

9 140. On a regular basis, WULLENJOHN demonstrated his modus operandi, which
10 translates as: "If I tell you to jump, the only thing you need ask is "How high?" And
11 he frequently ordered: "If you have a problem, you come to me!", thus implying that
12 Plaintiff had no recourse other than the treatment WULLENJOHN meted out to her.
13 On at least one occasion, WULLENJOHN used offensive gestures towards Plaintiff,
14 i.e., "flipping the bird".
15

16 141. In July 2005, during the midst of a project deadline, Wullenjohn approached
17 Plaintiff and aggressively demanded that they talk "right there, right now!!" During
18 the course of the conversation, WULLENJOHN told Plaintiff that she was his
19 "guinea pig", and again intimated that he could treat her however he wished, with
20 impunity.
21

22 142. This pattern of behavior would adversely impact on Plaintiff's job performance,
23 and changed the terms, conditions, and scope of Plaintiff's job. Plaintiff noted the
24 disparity between WULLENJOHN's working relationship with her, relative to his
25 interaction with her fellow colleagues.
26
27

28 COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 143. WULLENJOHN supervised a staff of approximately six analysts. A White
2 female (PURA III), an Asian female (PURA III/IV), a White male (PURA III), a
3 Black male (PURA III), and Plaintiff (African-American, PURA III), and a Senior
4 Utility Engineer (male, of Middle Eastern descent).

5
6 144. Plaintiff asked colleagues supervised by WULLENJOHN if they'd had problems
7 with him. Only one analyst (PURA III, male of African descent) indicated that he
8 had. The situations he described rang familiar to Plaintiff...WULLENJOHN'S
9 abusive, hostile, bullying behavior, and his abuse of authority, consistent with the
10 behavior that Plaintiff experienced.

11
12 145. WULLENJOHN also -- to coin his term --"flamed" a fellow supervisor (of
13 African descent), saying "Let's get our f---ing act together!"

14
15 146. By Fall, 2005, the work environment was increasingly chaotic and without
16 direction. WULLENJOHN admitted to confusion in his ability to supervise the flow
17 and organization of project work. His reaction was to increasingly vent his frustration
18 --bullying behavior towards Plaintiff-- to try and "correct" the situation.

19
20 147. Further, his willingness to remedy and prevent other staff (i.e., PAULL) from
21 abusive and behavior towards Plaintiff remained unchecked.

22 148. His reaction to such abuse was "Brush it off"! Move on! You make a big deal out
23 of nothing..."

24 149. Yet, when non-productive staff assigned to the Project raised spurious complaints,
25 WULLENJOHN was all too eager to fault Plaintiff.
26
27
28

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 150. Only after Plaintiff filed an internal complaint (February 2006) did
2 WULLENJOHN attempt face-saving measures, advising PAULL that we need to be
3 sensitive to Plaintiff's concerns.
4

5 151. By February, 2006, working conditions became so fractious, intolerable, and
6 unreasonable that Plaintiff quit the assigned project.
7

8 152. Plaintiff was assigned to another project. WULLENJOHN continued to oversee
9 Plaintiff on administrative matters.
10

11 153. On February 23, Plaintiff filed a charge of retaliation with the California State
12 Personnel Board.
13

14 154. In June, 2006, Plaintiff was assigned to a new supervisor, ABHULIMEN. The
15 working relationship between Plaintiff and WULLENJOHN ends.
16

17 155. In or around September 5, 2006, Defendants sent Plaintiff a copy of a document
18 outlining duties and expectations of DRA analysts.
19

20 156. In or around June, 2006, Defendants CPUC issued a revised policy memo to
21 provide guidelines on employee performance evaluations.
22

23 157. On January 4, 2007, the State Personnel Board (SPB) heard Plaintiff's case.
24

25 158. During the course of that hearing, WULLENJOHN cited and discussed passages
26 of e-mail text that he alleged substantiated the "flaming" comment included in
27 Plaintiff's performance evaluation.
28

159. While delivering this portion of his (narrative) testimony, WULLENJOHN grew
increasingly agitated, to the point where he told Plaintiff that he would "**beat the
aggression**" out of her.

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1 160. The following day, January 5, 2007, the CPUC promoted WULLENJOHN to the
2 position of Branch Manager, in the Division of Telecommunications.

3 161. On January 18, 2007, the SPB notified Plaintiff that it had dismissed her case, and
4 that her administrative remedies had been exhausted.

5 162. On May 18, 2007, the U.S. Department of Justice notified Defendants CPUC that
6 it had issued Plaintiff's a Federal Right to Sue Notice.

7 163. On or about June 4, 2007, Defendants CPUC issued to staff (via Intranet) updated
8 memos on its anti-retaliation, equal employment opportunity, and unlawful
9 harassment policies.

10 164. In or around June 15, Defendants CPUC conducted a sample analysis of
11 employees' personnel files, for review of its compliance with performance evaluation
12 requirements, Defendants admitted that some variance (and therein disparity) on the
13 frequency and standards of performance evaluation measures for CPUC employees,
14 may exist.
15
16
17
18

19 **CAUSE OF ACTION**

20
21 **Plaintiff alleges upon information and belief that the acts complained of in this suit**
22 **concern Defendants':**

23 165. Continuous failure to promote, in violation of Title VII of the Civil Rights Act of
24 1964, as amended, Title 42, Section 2000e-2(a) and Section 2000e-2(h), and 42,
25 Section 1981 and 1983.
26
27
28

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

166. Hostile working environment, harassment, and retaliation, in violation of Title VII of the Civil Rights Act of 1964, as amended, Title 42, Section 2000e-2(a) and 42, Section 1981 and 1983.

167. Intentional infliction of emotional distress, in violation of Title VII of the Civil Rights Act of 1964, as amended Title 42, Section 2000e-2(a)

168. Obstruction of justice, in violation of Title VII of the Civil Rights Act of 1964, as amended Title 42, Section 2000e-2(n) (2) (D) and Title 42, Sections 1981 and 1983...

Defendants' conduct is discriminatory with respect to the following:

169. My race or color.

170. Lawful exercise of constitutionally provided First Amendment rights.

171. Lawful exercise of constitutionally provided Fifth Amendment rights

172. Lawful exercise of constitutionally provided Fourteenth Amendment rights

173. Lawful exercise of constitutionally provided rights, pursuant to Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C., Sections 1981 and 1983.

Defendant California Public Utilities Commission

174. Plaintiff references herein paragraphs 8-10, 29-30, 32-34, 44, 46-51, 53-54, 75-77, 83, 88-89, and 163-164. The basic facts surrounding my claims of discrimination, harassment, and retaliation among other ways, by:

175. failing or refusing to apply consistent, transparent, and bona fide criteria in performance evaluation, promotion, hiring, and other employment practices, in violation of Title 42, U.S.C.A., Section 2000e-2(a), (h), and (k)

176. failing or refusing to take appropriate action to remedy the effects of discriminatory and retaliatory treatment, and hostile acts perpetuated by Defendant

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

Robert J. WULLENJOHN, in violation of the Civil Rights Act of 1964 Section 701 et seq., Title 42 U.S.C.A Section 2000e-2(a); and

177. engaging in acts, with malice or conscious disregard to Plaintiff's federally protected rights, directly or indirectly, that constitute obstruction of justice and violation of U.S.C.A., Title 42, Sections 2000e-2(n)(2)(D), 2000e-3(a) and 42 U.S.C., Sections 1981 and 1983.

Defendant Robert J. WULLENJOHN

178. Plaintiff references herein paragraphs 13, 29-31, 41-45, 54, 68-69, 131, 138-142, 145, and 158-160. The basic facts surrounding my claims of discrimination, harassment, and retaliation among other ways, by:

179. subjecting Plaintiff to harassment based on racial animus and for retaliatory motive while she was under his supervision (November 2004-March 2006), and adversely impacting Plaintiff's ability to perform her duties, therein affecting the compensation, terms, conditions, and privileges of Plaintiff's employment, in violation of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C., Sections 2000e-2(a) and (m) and Section 2000e-3(a);

180. retaliating against Plaintiff for engaging in constitutionally-protected First Amendment activity, and in violation of 42 U.S.C.A., Section 2000e-2(n)(2)(D)

181. threatening or promising to effectuate physical violence against Plaintiff, under oath and during the course of formal testimony in a State administrative hearing, in violation of 42 U.S.C.A., Section 2000e-2(n)(2)(D); and

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

182. harassing and intentionally inflicting emotional distress on Plaintiff, in violation of 42 U.S.C.A. Section 2000e-2(a) and 2000e-2(n) (2) (D).

Defendant Dana S. APPLING.

183. Plaintiff references herein paragraphs 12, 29-30, 32-34, 46-52, 54, 75-77, 83, 88-89, 99-100, and 163-164. The basic facts surrounding my claims of discrimination, harassment, and retaliation among other ways, by:

184. failing or refusing – on a continuous basis -- to engage in bona fide, consistent and merit-based criteria, in hiring, evaluation, promotion, and other employment decisions, in violation of 42 U.S.C, Sections 2000e-2(a) and (h) and 42 U.S.C., Sections 1981 and 1983;

185. failing or refusing to promote Plaintiff, due to retaliatory motives, in violation of 42 U.S.C, Section 2000e-2(a) and (h), (n)(2)(D), and Section 2000e-3(a);

186. failing or refusing – on a continuous basis -- to take appropriate action to remedy the effects of discriminatory, retaliatory and hostile acts committed by Defendant Robert J. WULLENJOHN, in violation of the Civil Rights Act of 1964 Section 701 et seq., 42 U.S.C.A Section 2000e-2(a).

187. engaging in acts, with malice or conscious disregard to employee's federally protected rights, directly or indirectly, that constitute obstruction of justice and violation of Title 42 U.S.C.A., Section 2000e-(2)(n)(2)(D), and of Sections 1981 and 1983 of the U.S.C.;

188. intentional infliction of emotional distress, in violation of Section 2000e-(2)(n)(2)(D)

COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

Defendant Arocles AGUILAR

189. Plaintiff references herein paragraphs 11, 54, 99-100. The basic facts surrounding my claims of discrimination, harassment, and retaliation among other ways, by:

190. engaging in acts, with malice or conscious disregard to Plaintiff's federally protected rights, that constitute obstruction of justice and violation of Sections 1981 and 1983 of the U.S.C., in violation of Section 2000e-(2)(n)(2)(D)

Defendants DOES 1-30:

191. Plaintiff references herein paragraphs 14, 54, 99-100. The basic facts surrounding my claims of discrimination, harassment, and retaliation among other ways, by:

192. engaging in acts, with malice or with conscious disregard to employee's federally protected rights, that directly or indirectly, that constitute obstruction of justice and violation of in violation of Section 2000e-(2)(n)(2)(D) and Sections 1981 and 1983 of the U.S.C.;

193. engaging in acts with malice or with conscious disregard to employee's federally protected rights that constitute denial of due process of appeal, in violation of Section 2000e-(2) (n)(2)(D) and of Plaintiff's constitutionally-protected Fifth Amendment rights.

REQUEST FOR RELIEF

Pursuant to the Civil Rights Act of 1964, as amended, 42 U.S.C., Section 2000e-5(g), Plaintiff requests that the Court:

194. enjoin Defendants from engaging in discriminatory employment policies and practices in violation of Title VII and require that Defendants develop a Court-

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AGUILAR/WULLENJOHN/DOES 1-30:

1 approved plan for establishing a bona fide, open, and transparent merit-based system
2 for promoting Commission staff;

3
4 195. punish or discipline any person found guilty of said counts liability, duty, penalty,
5 or punishment provided by any present or future law of any State;

6 196. punish or discipline any person found guilty of acts or practices depriving
7 Plaintiff of constitutionally-protected rights;

8 197. award compensatory and punitive damages and fine Defendants for said practices
9 and policies;

10
11 198. award remedial relief and equitable remedies, including but not limited to back
12 pay with interest to Plaintiff, due to Defendants' discriminatory conduct; and

13 199. grant such further relief as the Court may deem just, together with the costs and
14 disbursements in this action.

15
16 200. Plaintiff will therefore request leave of the court to amend this Complaint to state
17 the amount of all such damages when they have been ascertained or upon proof at the
18 time.

19
20 **DEMAND FOR JURY TRIAL**

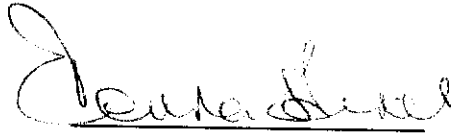
21 Plaintiff hereby requests trial of this matter by jury.
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COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30:

1
2 WHEREFORE, Plaintiff requests that this Court enter judgment and grant such relief as
3 may be appropriate, including compensatory damages according to proof and monetary
4 damages to compensate for emotional distress suffered by the Plaintiff.
5

6
7 DATED: 8/13/07

8 

9 SIGNATURE OF PLAINTIFF

10 DONNA HINES

11 PLAINTIFF'S NAME

12 (Printed or Typed)
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COMPLAINT: HINES v CPUC/APPLING

AGUILAR/WULLENJOHN/DOES 1-30: